

During that meeting, Ms. Malone made allegations against Mr. Lillo as well as numerous other coworkers at the Town Highway Department. Ms. Malone also informed us, either that day or in the following day or two, that she had already retained an attorney.

5. Document #61, submitted in camera to the court, is a true and accurate copy of handwritten notes that I wrote while serving as Deputy Town Attorney.

6. The notes are undated, but I wrote these notes in the second half of 2018. At that time, Victoria Malone, who was represented by an attorney, had already made complaints of harassment against Brian Lillo and raised allegations against other Highway Department employees. The notes were made after Ms. Malone served the Town with her first notice of claim in September 2018.

7. Mr. Lillo was represented by attorney Keith Braunfotel with respect to the criminal investigation and charges prompted by Ms. Malone's July 2018 complaint against him.

8. The notes in Document #61 reflect my mental impressions concerning Ms. Malone's claims and my opinions regarding potential evidence and strategies for the anticipated litigation with Ms. Malone concerning her allegations against Brian Lillo and other Town employees.

9. I did not share the notes in Document #61 with anyone else.

10. Document #55, submitted for in camera review, is a copy of a draft investigation report that I received from attorney Vincent Toomey. Mr. Toomey serves as outside Labor Counsel to the Town of Clarkstown.

11. Mr. Toomey was primarily responsible for the investigation of Ms. Malone's harassment complaints against Mr. Lillo. At the conclusion of the investigation, he concluded that Mr. Lillo did not violate the Town's anti-harassment policy.

12. After the start of litigation in this matter, counsel for Mr. Lillo inquired whether the Town would write a report to formalize its investigation findings that Mr. Lillo did not violate the Town's anti-harassment policy. Accordingly, I asked Mr. Toomey to draft a reporting regarding the investigation.

13. Because litigation with Ms. Malone had commenced, Mr. Toomey sent a copy of the draft report to me and to outside litigation counsel to the Town, John Flannery and Eliza Scheibel at Wilson Elser. The draft was sent to obtain legal advice regarding the implications and effect of producing the report during pending litigation. I had one conversation with Mr. Toomey and Ms. Scheibel concerning the draft and the pending litigation. Mr. Toomey then finalized the report. A copy of the final report is attached as **Exhibit C** to the Declaration of John M Flannery.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of November 2020.


Leslie Kahn

sworn before me
on November 25, 2020



STACY KUO
Notary Public, State of New York
No. 01KU6277660
Qualified in Rockland County
Commission Expires March 11, 2021